

**Testimony  
Of  
Stanley Painter, Chairman  
National Joint Council of Food Inspection Local Unions,  
American Federation of Government Employees, AFL-CIO  
Before  
Domestic Policy Subcommittee  
House Committee on Oversight and Government Reform**

**Thursday, April 17, 2008  
2154 Rayburn HOB  
1:00 P.M.**

Good afternoon Chairman Kucinich, Ranking Member Issa and members of the subcommittee. My name is Stan Painter and I am the chairman of the National Joint Council of Food Inspection Local Unions that is affiliated with the American Federation of Government Employees, AFL-CIO. The National Joint Council represents some 6000 non-supervisory inspectors who work for the Food Safety and Inspection Service (FSIS) of the United States Department of Agriculture (USDA). We do not represent the FSIS veterinarians. We are the inspection workforce that enforces the provisions of the Federal Meat Inspection, Poultry Products Inspection and Egg Products Inspection Acts to ensure that consumers receive safe, wholesome and unadulterated products under USDA jurisdiction. I have been an FSIS inspector for nearly 23 years and I have served as the chairman of the National Joint Council for nearly five years. Prior to coming to work for FSIS, I worked in the poultry processing industry for 3 years. I welcome this opportunity to share our views on the current state of food inspection within USDA.

**Hallmark/Westland Recall**

The recent recall of some 143 million pounds of beef products from the Hallmark/Westland Meat Company in Chino, California – the largest recall in USDA history – is an event that the NJC hopes starts to shed some light on the deficiencies of the current inspection process at USDA. It highlights one of the problems that we have attempted to raise with the agency ever since 1996 when the Hazard Analysis and Critical Control Points (HACCP) inspection system was put in place. There seems to be too much reliance on an honor system for the industry to police itself. While the USDA investigation is still on going at Hallmark/Westland, a couple of facts have emerged that point to a system that can be gamed by those who want to break the law. First, we know that the FSIS veterinarian assigned to the facility conducted ante-mortem inspection outside in the holding pen twice during his shift – at 6:30 am and at 12:30 pm. During the time in-between, the veterinarian would go back inside the plant to supervise the actual slaughtering process. According to current practices, that meant that if any animal went down after he conducted ante-mortem inspection, it would be up to the company to alert the FSIS veterinarian to come back out to do another check on the animal. It is apparent from the video shot by the investigator for the Humane Society of the United States (HSUS) that did not occur, as it appears that downed animals were sent to slaughter after the initial ante-mortem inspection. Second, it is apparent from the HSUS video that some cattle arriving at the Hallmark/Westland facility were not able to walk on their own either from the trailers that transported them to the facility or could not stand once in the holding pen without extraordinary measures being taken by plant employees to force the animals to stand, such as pull their legs with a chain, gouging their eyes with a baton, water boarding them, or ramming a forklift into their sides. These were all clear violations of the Humane Slaughter Act.

There have been some who have argued that since there were five FSIS inspection personnel assigned to the plant, how did this happen? It is a good question and I hope the investigations being conducted by the USDA's Office of Inspector General produce some answers. But the bottom line is that if plant management creates a culture for their employees to skirt around FSIS regulations, they can usually find a way to do it because the inspection personnel are usually outnumbered. I also hope that the investigation explores what the agency management did know about this and possible past violations at this and other plants around the country because it would not be the first time that agency sat on information about regulatory violations and did nothing about it.

### **“Let the System Work”**

My members are very conscientious about their jobs. Consumer protection is the first thing we think about when we go to work every day. We are trained to enforce the various laws and regulations under FSIS jurisdiction. When we see a violation, we are trained to document and write non-compliance reports. In practice, however, that does not always occur. As I mentioned earlier in my testimony, we have had a problem with the way HACCP was implemented at FSIS in the late 1990's and continues to be enforced. HACCP was adopted in response to the Jack-in-the-Box E.coli 0157:H7 outbreak in 1993. While HACCP was billed as an attempt to introduce science into meat and poultry inspection system, it also shifted the responsibility for food safety over to the companies. While I agree that companies must be responsible for the products they put into commerce, it frustrates me and many of my members when we are told by our supervisors to “let the system work” when we see violations of FSIS regulations and we are

instructed not to write non-compliance reports in order to give companies the chance to fix the problems on their own. Sometimes even if we write non-compliance reports, some of the larger companies use their political muscle to get those overturned at the agency level or by going to their congressional delegation to get the inspection staff to back off. So, the agency's databases may not contain accurate information about the compliance history of meat and poultry plants because of pressure being applied not to write them up for violations.

### **Employee Intimidation**

Some of my members have been intimidated by agency management in the past when they came forward and tried to enforce agency regulations and policies. I will give you a personal example. In response to the December 23, 2003 discovery of bovine spongiform encephalopathy (BSE) in a cow in Washington State, FSIS issued a series of interim final rules in January 2004 to enhance the safety of the beef supply. Among these new regulations included a ban on meat from downed animals from entering the food supply and the removal of specified risk materials (SRMs) from slaughtered cattle over the age of 30 months before the meat from these animals could be processed and enter into commerce. In December 2004, I began to receive reports that the new SRM regulations were not being uniformly enforced. I wrote a letter to the Assistant FSIS Administrator for Field Operations at the time conveying to him what I had heard. On December 23, 2004, I was paid a visit at my home in Alabama by an FSIS official who was dispatched from the Atlanta regional office to convince me to drop the issue. I told him that I would not. Then, the agency summoned me to come here to Washington, DC where agency officials subjected me to several hours of interrogation including wanting me to identify which of

my members were blowing the whistle on the SRM removal violations. I refused to do so. I was then placed on disciplinary investigation status. The agency even contacted the USDA Office of Inspector General to explore criminal charges being filed against me. Those charges were never filed. Because all of this was occurring during the time that USDA was trying to re-open beef trade with Japan, I found out that the disciplinary investigation and the possible criminal investigation into my allegations were the subject of a posting on the website of the U.S. Embassy in Japan. Both my union AFGE and the consumer group Public Citizen filed separate Freedom of Information Act requests in December 2004 for any non-compliance records in the FSIS data base that would support my allegations. It was not until August 2005 that over 1000 non-compliance reports – weighing some 16 pounds -- were turned over to both AFGE and Public Citizen that proved that what my members were telling me was correct – that some beef slaughter facilities were not complying with the SRM removal regulations.<sup>1</sup> Coincidentally, on the same day that those records were released, I received written notification from the agency that they were dropping their disciplinary investigation into my actions – some eight months after their “investigation” began. It then took further action by Congresswoman Rosa DeLauro and Congressman Maurice Hinchey to have the State Department remove some of the material that was posted about me on the website of the U.S. Embassy in Japan. While I was completely exonerated in this incident, it has caused a chilling effect on others within my bargaining unit to come forward and stand up when agency management is wrong.

### **Inspector Shortages and Increased Workload**

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<sup>1</sup> See “Evidence of Weak Meat Inspection Program Found in Nearly a Thousand Violations of Mad Cow Rules at Slaughter Plants,” Public Citizen, August 18, 2005, <http://www.citizen.org/pressroom/release.cfm?ID=2024>

As you know, the Federal Meat Inspection Act and Poultry Products Inspection Act both require that FSIS provides continuous inspection in meat and poultry facilities while in operation. Continuous inspection has come to mean that in slaughter facilities, FSIS inspectors must be present at all times to provide carcass-by-carcass inspection. In processing facilities, FSIS inspectors must visit plants at least once per shift. In recent years, we have experienced severe inspector shortages in many parts of the country. This became very apparent in 2006 when the agency experienced a cut in funding. We began to hear examples of one processing inspector having to handle 18 processing plants in his daily assignment that covered from just north of New York City to Connecticut. In the Philadelphia District, we became aware of another inspector's assignment that included 24 plants. This was occurring in spite of the fact that the agency was testifying in 2006 before the House and Senate Agriculture Appropriations Subcommittees that each processing inspector spent an average of 2 hours and forty minutes at each plant. Congress became aware of the shortages and began to address the problem by allocating additional resources in the 4<sup>th</sup> Continuing Resolution for FY 2007 that was signed into law by President Bush on February 15, 2007. However, there still seem to be severe inspector shortages in several parts of the country. In July 2007, the consumer group Food & Water Watch submitted a Freedom of Information Act request to FSIS asking for in-plant inspection personnel vacancy data by FSIS District for the 2007 Fiscal Year. Food & Water Watch received a response in October 2007, which I have attached to my testimony. While the chart shows some progress in filling inspector and veterinarian vacancies, it also shows that at the end of the 2007 Fiscal Year, FSIS was still short some 800 in-plant inspection personnel – running a 10.25% national vacancy rate. There were also wide variations in vacancy rates among FSIS

Districts ranging from a low of 6.03% in the Jackson District to a whopping 21.25% in the Albany District. These are not our numbers – these are the agency’s numbers.

These shortages are taking a toll on my members and their ability to do their jobs. In early 2007, the NJC along with the consumer group Food & Water Watch conducted survey of nearly 5700 of my members. We mailed a questionnaire to them and 1320 responded, and this is what we learned:

- Over 70% said staffing shortages impacted their physical and mental health;
- More than half of slaughter and combination plant inspectors responded that less than half of the regulatory violations they observed were actually recorded on non-compliance reports;
- Nearly 90% of slaughter and combination plant inspectors reported that off-line inspectors (those inspectors responsible for writing non-compliance reports) have been pulled to cover vacancies on the slaughter line (where they cannot write the reports);
- Nearly 40% of inspectors who were on patrol assignments stated that not all processing plants in their circuit were visited at least once per shift and over three-quarters of those inspectors stated that those plants were not visited at least once daily.

These shortages are putting consumers at risk because FSIS inspectors are not able to do a thorough job of inspecting meat and poultry products because there are not enough of us to do it.

On the issue of workload, there was a March 4, 2008 study released by the organization OMB Watch in which they found that the number of FSIS employees has not kept up with the increased level of production in the meat and poultry industries. The study points out that in FY 1981, there were 181 FSIS employees per billion pounds of meat and poultry inspected and passed; in FY 2007, FSIS employed fewer than 88 workers per billion pounds – a 54 percent drop. I have also attached that study to my testimony for your consideration.

That has meant one thing – increased line speeds. Today, we have some poultry slaughter facilities that are allowed to operate line speeds at the rate of 200 birds per minute and some beef slaughter operations at 390 head per hour. The agency is now considering industry proposals to permit some poultry processing facilities to operate at even faster line speeds. In the 2007 joint NJC- Food & Water Watch survey of my members, nearly 80% of the slaughter and combination plant inspectors reported that line speeds were so fast that it made it difficult to catch adulteration on carcasses.

The agency is also considering proposals to privatize meat and poultry inspection. Since 1999, FSIS has operated a pilot project called the HACCP-based Inspection Models Project or HIMP in which company employees have assumed some of the duties normally performed by FSIS inspection personnel. It has led to a reduction in the number of FSIS inspectors assigned in those plants. Line speeds can be completely unregulated at these facilities. This pilot project is being conducted in some two-dozen poultry and hog slaughter facilities. The agency is proposing to expand this pilot eventually to cover all meat and poultry slaughter facilities and has come up with the catchy title of Public Health Based Inspection System to hide the fact that it is trying to outsource meat and poultry inspection. Just last week, we learned that FSIS has given its approval to an Australian beef company to be able to export its products to the United States under a privatized inspection system. While no beef plants are currently in HIMP in the United States, we view the Australian approval as a backdoor attempt to introduce a privatized beef inspection scheme here in the United States.

I thank you for your attention and I would be happy to answer any of your questions.

